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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/601,399	06/23/2003	Michael V. Solomita JR.	22868/2	7794
7590	01/31/2006		EXAMINER	
Brian L. Michaelis, Esq. Brown Rudnick Berlack Israels LLP One Financial Center Boston, MA 02111			WEST, JEFFREY R	
			ART UNIT	PAPER NUMBER
			2857	

DATE MAILED: 01/31/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)
	10/601,399	SOLOMITA ET AL. 
	Examiner	Art Unit
	Jeffrey R. West	2857

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1) Responsive to communication(s) filed on 09 December 2005.
 2a) This action is FINAL. 2b) This action is non-final.
 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4) Claim(s) 21-26 is/are pending in the application.
 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
 5) Claim(s) _____ is/are allowed.
 6) Claim(s) 21-26 is/are rejected.
 7) Claim(s) _____ is/are objected to.
 8) Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9) The specification is objected to by the Examiner.
 10) The drawing(s) filed on 11 March 2005 is/are: a) accepted or b) objected to by the Examiner.
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
 Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
 a) All b) Some * c) None of:
 1. Certified copies of the priority documents have been received.
 2. Certified copies of the priority documents have been received in Application No. _____.
 3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)	4) <input type="checkbox"/> Interview Summary (PTO-413) Paper No(s)/Mail Date. _____
2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)	5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)
3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) Paper No(s)/Mail Date _____	6) <input type="checkbox"/> Other: _____

DETAILED ACTION

1. This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

Continued Examination Under 37 CFR 1.114

2. A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on September 12, 2005, has been entered.

Claim Objections

3. Claim 21 is objected to because of the following informalities:

In claim 21, line 3, to avoid confusion, "initiating a state change from" should be --
-initiating a state change, from---.

Appropriate correction is required.

Claim Rejections - 35 USC § 102

4. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

5. Claims 21-26 are rejected under 35 U.S.C. 102(b) as being anticipated by EP Patent No. 0 055 314 to Hedges.

With respect to claim 21, Hedges discloses a method for managing a network of devices consuming a resource provided by a utility, said method comprising the steps of initiating a state change, from a utility computing platform, to affect resource consumption at at least one premise (page 10, lines 1-9 and Figure 1), receiving said state change from said utility computing platform at a gateway at said at least one premise (page 10, lines 3-6 and Figure 1), processing, at said gateway, said state change from said utility computing platform to determine an energy management scheme for affecting resource consumption at said at least one premise (page 13, lines 1-13 and Figure 2), translating, at said gateway, said state change from said utility computing platform into a native format used by at least one device in said network of devices consuming said resource (i.e. convert the RF state change signal to corresponding load controlling logic) (page 12, lines 15-25 and Figure 2), and generating control signals (page 12, lines 21-25) to control said

network of devices consuming said resource (page 15, lines 18-25), said control signals being a function of said state change from said utility platform and said energy management scheme determined by processing at said gateway (page 12, lines 21-25 and page 13, lines 1-13).

With respect to claim 22, Hedges discloses monitoring consumption of devices at said gateway (page 12, lines 8-11) to determine compliance with said energy management scheme (page 10, lines 1-14), and feeding back to said utility computing platform results of said monitoring step (page 9, lines 10-17 and page 10, lines 9-14).

With respect to claim 23, Hedges discloses that additional state changes may be initiated by said utility as a function of the results of said monitoring step (page 10, lines 1-14).

With respect to claim 24, Hedges discloses that said at least one premise is a single premise or a selected grouping of premises (page 12, lines 3-6 and Figure 1)

With respect to claim 25, Hedges discloses said processing step involves applying rules from a rules engine to said state change (i.e. engine of rules controlling predetermined state changing sequences) (page 14, lines 2-13).

With respect to claim 26, Hedges discloses that said additional state changes are initiated to achieve target demand reduction (page 10, lines 1-14).

Response to Arguments

6. Applicant's arguments with respect to claims 21-26 have been considered but are

moot in view of the new ground(s) of rejection.

Conclusion

7. The prior art made of record and not relied upon is considered pertinent to Applicant's disclosure.

U.S. Patent No. 6,538,577 to Ehrke discloses a method for managing a network comprising receiving a demand-response event requested over a wide area network from the utility to a gateway (column 7, lines 1-8) in communication with a local network (column 7, lines 9-20), forwarding the demand-response event request through the local network to a translator for the operational resource consuming device (column 7, lines 9-20), translating the request into a native format for the operational resource consuming device (column 7, lines 15-20), receiving and storing post demand-response event data from the operational resource consuming device (column 7, lines 20-22 and 56-57 and column 9, lines 30-38), and forwarding the post demand-response event data through the wide area network to the utility (column 7, lines 25-33), the utility analyzing the post demand-response event data (column 1, lines 21-23 and column 9, lines 30-38).

U.S. Patent No. 6,622,097 to Hunter teaches a method and apparatus for reading and controlling electric power consumption comprising a gateway control device that is portable (column 5, lines 17-23 and column 7, lines 30-35), includes a graphical user interface (column 6, lines 50-64) and a user interface control mechanism for selecting portions of the user interface (i.e. mouse pointer) (Figure 6

and column 7, lines 30-35) in order to initiate a state change of the operational resource consuming device (column 7, lines 56-63) for cost efficiency (column 8, lines 18-26). Hunter teaches that the control device controls the consumption of units of resource provided by a utility (column 7, lines 64-65). Hunter also teaches that the device is a thermostat for monitoring ambient temperature in communication with a climate control unit in communication with a communication network (column 7, line 64 to column 8, line 7) whereby the thermostat transmits temperature data to the gateway (i.e. end-user interface) (column 8, lines 14-16 and 34-42) and receives command signals from the gateway to the climate control unit to heat or cool the ambient airspace by receiving operational data from the resource consuming device comparing the data to a rules set (i.e. baseline levels) and transmitting a state change command to the resource consuming device when a rule is satisfied (column 7, line 64 to column 8, line 7).

U.S. Patent No. 5,696,695 to Ehlers et al. teaches a system for rate-related control of electrical loads including a menu and button driven graphical user interface (column 14, lines 38-56 and Figures 11-15).

U.S. Patent No. 6,029,092 to Stein teaches a system and method for providing modular control and for managing energy consumption.

U.S. Patent No. 6,157,874 to Cooley et al. teaches power control systems and processes.

U.S. Patent No. 6,281,601 to Edelman et al. teaches a turbogenerator power control system and method.

8. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jeffrey R. West whose telephone number is (571)272-2226. The examiner can normally be reached on Monday through Friday, 8:30-5:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Marc S. Hoff can be reached on (571)272-2216. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Jeffrey R. West
Examiner – AU 2857

January 30, 2006